

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

In re:)	Chapter: 13
Javeed A. Syed)	
)	No. 23-08362
)	
Debtor)	Judge Janet S. Baer

NOTICE OF MOTION

TO: See attached list

PLEASE TAKE NOTICE that on **7/28/2023, at 9:30AM**, I will appear before the Honorable Judge Janet S. Baer, or any judge sitting in that judge's place, **either** in courtroom 615 of the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, **or** electronically as described below, and present the motion of Codilis & Associates, P.C. for Wintrust Mortgage, a division of Barrington Bank & Trust Company, N.A., a copy of which is attached.

Important: Only parties and their counsel may appear for presentment of the motion electronically using Zoom for Government. All others must appear in person.

To appear by Zoom using the internet, go to this link: <https://www.zoomgov.com/>. Then enter the meeting ID and passcode.

To appear by Zoom using a telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and passcode.

Meeting ID and passcode. The meeting ID for this hearing is 160 731 2971, and the passcode is 587656. The meeting ID and passcode can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without calling it.

/s/ Peter C. Bastianen
Attorney for Movant

Rachael A. Stokas ARDC#6276349
Peter C. Bastianen ARDC#6244346
Joel P. Fonferko ARDC#6276490
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bkpleadingsNORTHERN@il.cslegal.com
File No. 14-22-06608
NOTE: This law firm is a debt collector.

CERTIFICATE OF SERVICE

I, Peter C. Bastianen, certify that I served a copy of this notice and the attached motion on each entity shown on the service list below at the address shown and by the method indicated on the list on July 14, 2023.

Glenn B Stearns, Chapter 13 Trustee, 801 Warrenville Road Suite 650, Lisle, IL 60532 by electronic notice through ECF

Javeed A. Syed, Debtor, 1044 Swift Rd, Unit 1E, Glen Ellyn, IL 60137 by pre-paid first class U.S. Mail

David Freydin, Attorney for Debtor, 8707 Skokie Blvd Suite 312, Skokie, IL 60077 by electronic notice through ECF

Office of U.S. Trustee, 219 S. Dearborn St., Room 873, Chicago, IL 60604 by electronic notice through ECF

/s/ Peter C. Bastianen
Attorney for Movant

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

IN RE:

Javeed A. Syed

Debtor

Chapter: 13

No.: 23-08362

Judge Janet S. Baer

**MOTION FOR LIMITED RELIEF FROM THE AUTOMATIC STAY
TO RECORD PARTIAL CLAIM MORTGAGE**

NOW COMES Wintrust Mortgage, a division of Barrington Bank & Trust Company, N.A., (the “Movant”), by and through its Attorneys, Codilis & Associates, P.C., and moves this Honorable Court for an entry of an Order for relief from the automatic stay for the limited purpose of recording a partial claim mortgage, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;
2. The Debtor is indebted to Movant for which it claims a valid security interest in the property commonly known as 1044 Swift Rd Unit 1E, Glen Ellyn, IL 60137 pursuant to a note and mortgage that matures on 09/01/2049 (See attached Primary Note and Mortgage);
3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 08/25/2021;
4. The Primary Note and Mortgage are insured by the U.S. Department of Housing and Urban Development (“HUD”);

5. HUD regulations authorize Movant to resolve a default in payments on the Primary Note and Mortgage through a “partial claim” *See* 24 C.F.R. §203.355(a)(6);

6. In a partial claim, the amount needed to cure a default on the primary Note and Mortgage is paid by HUD to Movant, and Debtor(s) give HUD a Subordinate Note and Partial Claim Mortgage for the amount paid; *See* 24 C.F.R. §203.371(a), (c);

7. Movant and Debtor have agreed to a partial claim in the amount of \$83,877.45 (See attached Subordinate Note and Partial Claim Mortgage);

8. Movant has standing to bring this motion because it is the servicing agent for the Subordinate Note and Partial Claim Mortgage on behalf of HUD; *See* C.F.R. §203.371(c);

9. Pursuant to paragraph 4(A) of the Subordinate Note, no payment is due until 10/01/2047, or earlier, when the first of the following events occurs:

- a. The Debtor has paid in full all amounts due under the primary Note and Mortgage;
- b. The maturity date of the primary Note has been accelerated; or
- c. The primary Note and Mortgage are no longer insured by HUD.

10. The “partial claim” is offered outside of bankruptcy, but because Debtor is in an active bankruptcy case, recording the Partial Claim Mortgage would seem to be a violation of the automatic stay, specifically 11 U.S.C. §362(a)(4), which stays “any act to create, perfect, or enforce any lien against the property of the estate;”

11. In addition, title companies may raise the issue of whether the Partial Claim Mortgage is void if recorded during an active bankruptcy and without relief from the stay;

12. Movant requests the entry of an order for relief from the automatic stay for the limited purpose of recording the Partial Claim Mortgage;

WHEREFORE, Wintrust Mortgage, a division of Barrington Bank & Trust Company, N.A. requests that this Court enter an Order modifying the automatic stay for the limited purpose of recording of the Partial Claim Mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this July 14, 2023.

Respectfully submitted,

Codilis & Associates, P.C.

By: /s/ Peter C. Bastianen
Attorney for Movant

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